ALTS

May 16, 1996

Mr. William F. Caton
Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

Re: Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; CC Docket No. 96-98

Dear Mr. Caton:

Enclosed herewith for filing are the original and sixteen (16) copies of ALTS' Comments regarding the above-referenced docket. Pursuant to the Commission's request, ALTS is also submitting by separate cover a 3.5 inch diskette using WordPerfect 5.1 software, containing our enclosed comments.

Please acknowledge receipt by affixing an appropriate notation on the copy of the ALTS Comments furnished for such purpose and remit same to the bearer.

Sincerely yours,

Richard J. Metzger
General Counsel

Enclosure

cc: Janice Myles - Room 544 (~~5 copies~~ 1 copy)
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D C 20554

In the Matter of	)	
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Implementation of the Local Competition Provisions in the Telecommunications Act of 1996	)	CC Docket No. 96-98
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COMMENTS OF THE ASSOCIATION FOR LOCAL TELECOMMUNICATIONS SERVICES

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May 16, 1996

SUMMARY

The Commission and its staff have justly earned the praise which has surrounded the release of the Interconnection NPRM. Struggling against short time limits, a revolutionary statutory goal, and a chorus of entrenched interests insisting the Commission should simply sit back and watch how things unfold at the state level, the Commission and staff issued a thoughtful NPRM which asks the right questions, and lists the right answers.

But the chief obstacle to completing any great task is the inclination to proclaim victory too soon. It would be fatal to local competition if the Commission only issued answers concerning unbundled network elements, price standards, etc., and then stood aside in the belief its pro-competitive mission had been successfully accomplished.

No matter how important it is for the Commission to properly interpret the substantive statutory standards -- and the many pages in this filing devoted to those standards certainly demonstrate that importance -- the single most critical issue confronted by the Commission is ensuring that its requirements, however they emerge, can be enforced swiftly and efficiently.

This is not a hypothetical concern. The original requests for expanded interstate interconnection were made over nine years ago, yet most incumbent local exchange carriers ("ILECs") do not

yet have approved rates on file. Indeed, the only two Regional Bell Operating Companies ("RBOCs") which chose to continue providing physical collocation (Pacific and NYNEX) are now being acquired by RBOCs which canceled their physical collocation tariffs at the earliest possible moment (SWB and Bell Atlantic). Nor is the need for Commission approval of in-region interLATA petitions from the RBOCs under Section 271 a sure guarantee of compliance. The RBOCs can sign as many agreements as they need to obtain Section 271 approval within the ninety day period allowed for Commission consideration, and then discover that "problems in outside plant records" or "budget constraints," just to name two of the likely "explanations," will keep them from honoring their promises.

The problem here involves the nature of institutional motivations and limitations, not the mores or diligence of any of the people involved. ILEC employees have a fiduciary responsibility to their shareholders. If the economic pain of local competition can be delayed through creative legal arguments, colorable provisioning provisions, or simply moving competitors' requests to the bottom of the in-box, that will surely happen unless there are swift and measurable consequences. Similarly, the individuals responsible for complaint enforcement at the Commission over the years have been both zealous and professional. But experience clearly shows that, from an institutional perspective, the complaint remedy has been too

lengthy, too expensive, and too impotent to effectively deter ILEC behavior even in the slow-moving monopoly environment, far less in a competitive market where weeks and even days are important. Sadly, the same situation also exists in the states.

No "silver bullet" exists to cure this problem. ILECs are well able to finance delay, and the emergence of price cap regulation in many jurisdictions has only heightened their nonchalance towards regulatory requirements. As a start, the Commission must at least recognize the right of carriers seeking interconnection arrangements under Section 251 to specify performance standards and include ordinary commercial enforcement mechanisms, be they mandatory arbitration, specified damages, performance bonds, etc., to ensure that those standards are met.

Insuring compliance with the Commission's rules may be less exciting than receiving well-earned applause for the rules themselves, but it will prove to be the single most critical task for the Commission if it hopes to make Congress' mandate of local competition more than just a goal sometime before the end of this century.

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COMMENTS OF THE ASSOCIATION FOR LOCAL TELECOMMUNICATIONS SERVICES

The Association for Local Telecommunications Services ("ALTS") hereby submits these comments in response to the Commission's Notice of Proposed Rulemaking ("Interconnection NPRM") released April 19, 1996, in the above proceeding.[1]

I. PROVISIONS OF SECTION 251 -- ¶¶ 25-263

A. Scope of the Commission's Regulations -- ¶¶ 25-41

The signing of the Telecommunications Act of 1996 on February 8, 1996, changed America's approach to telecommunications policy in two profound ways. First, the '96 Act mandates full competition in all telecommunications markets, and rejects monopoly provisioning as the fundamental paradigm for

[1] ALTS is the national trade association of over thirty facilities-based competitive providers of access and local exchange services.

telecommunications services. Second, and perhaps even more fundamentally, this new reliance on full competition applies with equal force to both the Federal and state environments.

The clear pro-competitive requirements of the Act bind both the Commission and the states. True, the Act encourages new entrants to negotiate adequate interconnection agreements with incumbent local exchange carriers ("ILECs") under state supervision, but the Act also entitles new entrants to insist that such agreements meet standards which apply equally in both the Federal and state jurisdictions.

National Rules Are Clearly Necessary - ¶¶ 26-32

The Commission is clearly correct that it needs to: " ... adopt national rules that are designed to secure the full benefits of competition for consumers, with due regard to work already done by the states that is compatible with the terms and the pro-competitive intent of the 1996 Act" (¶ 26). While it is true no state jurisdiction has yet achieved the full pro-competitive requirements of the '96 Act, several states have done pioneering work in paving the way for local competition. New York, California, Oregon, Washington, Michigan and several other jurisdictions have stepped up to many difficult issues, and made decisions from which the Commission can clearly benefit in articulating statutory requirements. The Commission should look

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[2] The Interconnection NPRM is correct that the recent (continued...)

to the best state efforts for initial guidance on the various requirements covered by the legislation, and then make specific additions and amplifications in order to implement the '96 Act.

National rules provide clear and substantial benefits for the introduction of competition. National rules improve access to the capital markets for competitors by providing broad and certain planning horizons for business plans. And, as the Interconnection NPRM recognizes, national rules would minimize the problem of "varying and inconsistent decisions individual district and circuit courts concerning the core requirements of the 1996 Act" (¶ 31).

The "core requirements" of national rules should resemble the approach adopted by states like California and New York: "preferred outcomes" on substantive and procedural matters from which parties and -- in the case of the present national framework -- states could depart only upon a compelling showing. A national "preferred outcome" approach by the Commission would permit states which seek to introduce competition even more rapidly than the Act to continue to do so, while requiring states and incumbent local exchange carriers to implement at least basic

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(...continued)
report of the Local Competition Work Group of the National Association of Regulatory Commissioners ("NARUC Work Group Report") strongly reflects a positive policy approach towards local competition at the state level.
NARUC Staff Subcommittee on Communications, Local Competition Work Group Summary Report, February 1996.

requirements for local competition, absent some compelling and manifest showing why they cannot do so.

There Are No Unique Policy Concerns Which Require Deference to the States - ¶ 33

Nor should the Commission fear that adoption of: "explicit national rules, in certain circumstances, might unduly constrain the ability of states to address unique policy concerns that might exist within their jurisdictions" (¶ 33). No such unique policy concerns exists, aside from the universal service questions committed to the new Joint Board under Section 254.[3] No state authority over issues involving public safety, consumer protections, supervision of rights of way, etc., are endangered in any way by this Commission's adoption of uniform explicit national rules.

On the other hand, failure to adopt national rules would create a "patchwork" of inconsistent and counter-productive state implementation, thereby increasing entry costs as competitors have to reinvent the competitive wheel in each jurisdiction with no assured time frames or outcomes. As the Interconnection NPRM recognizes, competitors "would likely incur additional expense, thereby increasing the cost of entry, a result that would be inconsistent with the pro-competitive goals of the statute" (¶ 30).

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[3] In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, released March 8, 1996.

Deference to State Experimentation Would Generate No Meaningful Guidance - ¶ 33

Even less credible is the speculation that deference to states would somehow foster: " . . . experiment[s] with different pro-competitive regimes to the extent that there is not a sufficient body of evidence upon which to choose the optimal pro-competitive policy" (id.). This theory suffers at least three flaws. First, there is no accepted theoretical basis for separating the market conditions which favor competition from the governing regulatory environment. A pro-competitive experiment in Nevada or South Dakota cannot be intelligently compared with the experience of New York or Illinois. Second, the time frame in which nuances among different pro-competitive state regimes might become observable is far too great to justify the delay involved in implementing a perfectly serviceable national framework immediately. This would be a classic instance of the perfect becoming the enemy of the good.

Third, and most compelling, there is no evidence that successful competitive policies can be transferred from areas as small as a state to the entire nation. Indeed, the experience of carriers such as MFS, Sprint, and MCI seems to be that an international focus is likely to be an important strategy component for several carriers. And when multi-state RBOCs rush to defend their mergers by citing their need for an even greater scale of operations, it is manifest that experiments limited to only one state would provide little

meaningful information.

Sections 251 and 252 Apply to Both Interstate and Intrastate Services -- ¶¶ 37-40

Among the more obvious conclusions drawn by the Interconnection NPRM is its observation that the requirements of Sections 251 and 252 extend to both interstate and intrastate jurisdictions (¶ 37). Given Congress' desire to: "implement a pro-competitive, de-regulatory, national policy framework" (¶ 26), there is no way the pro-competitive requirements of Sections 251 and 252 could be limited to either jurisdiction without gutting the opportunity to implement competition in both.

Furthermore, the fact Congress intended the same standards and procedures to apply to arrangements providing both interstate and intrastate functions in no way requires an end to the separations process. The new Joint Board is free to recommend, and the Commission is free to adopt, processes for allocating the assets, expenses and revenues involved in Section 252 arrangements between the Federal and state jurisdictions, in the event it deems that necessary. The essential point is that Congress' prescription of uniform standards in no way extinguishes the ability to apply separations procedures, though it may very well affect the need to do so.

There is a Compelling Need for Enforcement of National Rules -- ¶ 41

ALTS agrees with the Interconnection NPRM that the Commission has concurrent jurisdiction pursuant to Section 208 with the states and federal courts over all matters involving enforcement of Sections 251 and 252 (¶ 41). Even more important, from ALTS' perspective, is the Interconnection NPRM's inquiry into "the effectiveness of enforcement mechanisms" and "the different roles the Commission might play, for example, as an expert agency, to speed resolution of disputes in other forums used by private parties" (id.).

As stated above (Summary, p. ii), ALTS believes enforcement is perhaps the most important issue confronting the Commission. It is obvious that the Commission and the states themselves are poorly positioned to act as enforcement mechanisms. Appropriations ceilings, furloughs, backlogs of complaints, all make it clear that asking the Commission or the states to enforce what may prove to be hundreds or even thousands of Section 252 agreements is tantamount to no meaningful enforcement at all.

But these agreements have to be enforceable in some way in order to give the statutory requirements any meaning. The "checklist" process required by Congress would quickly become an ugly charade if the RBOCs discover they can issue any promises they want in Section 252 agreements, get their Section 271 petitions stamped "approved" by the Commission, and then

"slowroll" implementation so long as they please while competitive local exchange carriers ("CLECs") spend money and time trying to urge courts, which will be totally unfamiliar and uncomfortable with the issues involved, to issue injunctive relief.

This is not fear-mongering. It is precisely what happened in connection with the early introduction of competition into the long distance industry, and it is already occurring in locations where interconnection supposedly exists. Brooks Fiber Properties (formerly City Signal) has discovered in Michigan that it cannot rely on Ameritech's promises concerning interconnection. It does not matter whether Ameritech misses cut over dates out of incompetence or anti-competitive intent, the damage to Brooks Fiber in the eyes of its customers is tremendous. Similarly in the Pacific Northwest, it is irrelevant whether US West is being anti-competitive or carefully watching its budget by failing to install sufficient trunk groups to handle interconnection with Electric Lightwave, Inc. and TCG. When ELI and TCG's customers get a fast-busy signal for calls they are used to completing with ease, they will blame the competitive providers, not US West.

The '96 Act demands <u>performance</u>, not just <u>promises</u>. It necessarily follows that CLECs need the right to include ordinary and prudent compliance mechanisms in their agreements implementing Section 251. Such mechanisms include, but are not limited to, provisioning interval requirements for order

processing and installation, quality of service standards, mandatory and binding arbitrations, specified damages for failure to meet performance standards, performance bonds, etc. There is nothing novel about the notion that a commercial agreement should contain enforcement mechanisms which can make judicial enforcement less likely. Home lenders require mortgages, disputes between securities dealers and purchasers are arbitrated, procurement contracts have standard arbitration agreements, repair firms are bonded, etc. Phone companies often insist that customers with poor payment records post deposits. It is just ordinary good business practice to minimize any need for judicial recourse in a commercial arrangement, and it is critical to the implementation of Sections 251 and 271. If the RBOCs can issue promises instead of real commercial arrangements, the core of the Act becomes meaningless.

Issuing rules to govern procedures in front of state commissions is obviously an unusual task for the Commission. But Congress clearly has plenary power over all aspects of telecommunications,[4] including those aspects which it decided to allow the states to regulate in the original Communications Act of 1934. Congress has now decided to exercise that authority by requiring that local competition be implemented, and has tasked the Commission with issuing regulations to insure this happens. Because defective procedural implementation is just as lethal to

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[4] See, e.g., Shreveport Rate Cases, 234 U.S. 342 (1914).

Congress' mandate as defective substantive standards, ALTS respectfully requests that the Commission set out minimum procedural standards to be followed by the states in their implementation of the Act as proposed in Attachment A, Subpart H.[5]

B. Obligations Imposed by Section 251(c) on "Incumbent LECs" -- ¶¶ 42-194

The substantive requirements of Section 251 are divided into three basic parts. Section 251(a) sets out the general duties of all "telecommunications carriers" concerning interconnection, and network features and functions in very simple terms. Section 251(b) lists the obligations of all "local exchange companies" -- including both CLECs and ILECs. The heart of Section 251's pro-competitive requirements are contained in Section 251(b)'s requirements of reciprocal compensation (with cost recovery as amplified in Section 252(d)(2)), number portability, dialing parity, rights of way, and in Section 251(c), paragraphs (1) through (6), as amplified in Section 271(c)(2)(B)'s "checklist."

Congress spelled out these duties in detail in order to insure the creation of pro-competitive environments in local exchange markets. It is these requirements which need to be

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[5] With the creation of "baseline" procedural standards, the Commission would be providing invaluable guidance to any Federal court hearing appeals from state review based on procedural contentions, and would also provide an important measure by which when to determine that a state's procedural actions amounted to a "failure to act" under Section 252(e)(5) which requires Commission preemption.

addressed clearly and comprehensively in the Commission's regulations in order to implement the Act.

The ultimate source of the Commission's authority to issue robust pro-competitive regulations pursuant to Section 251(d) is simple. Federal courts have long recognized that agencies implementing remedial statutes have plenary power to issue implementing regulations. See, e.g., Whirlpool Corp. v. Secretary of Labor, 445 U.S. 1, 13 (1980); Secretary of Labor v. Carolina Stalite Co., 734 F. 2d 1547 (D.C. Cir. 1984).

The blunt fact is that the "pro-competitive framework" envisioned by Congress will not come about unless the Commission implements vigorous pro-competitive Section 251(d) regulations. End users neither know, nor care, whether non-party carriers now have the right to order disaggregated elements from state-approved interconnection agreements under Section 252(i). What they care about is getting the service they want, at the price they want, at the time they request, and with the quality they expect. If they are getting fast busy tones from Electric Lightwave, Inc. because of capacity limitations in US West's network which it declines to cure, if NYNEX won't accept LOAs from TCG's customers,[6] if Brooks Fiber customers in Michigan keep getting their service dates missed because Ameritech won't meet

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[6] See In the Matter of Teleport Communications - New York v. NYNEX, complaint filed May 8, 1995 File No. E-95-4.

its assurances to Brooks, customers will come to view competitive local providers as "second-rate," and the march to effective local competition will be seriously, perhaps even fatally, wounded. If the Commission's Section 251(d) regulations fail to accommodate this fundamental basic need -- the same "tyranny of the customer" that rules all competitive markets -- then the '96 Act will not succeed.

Even more importantly, the various requirements of Section 251 are amplified in the checklist portion of Section 271, which concerns RBOC entry into in-region inter-LATA services. The Commission has only ninety days in which to act on petitions under Section 271, even though proceedings on similar requests at the MFJ courts have taken months and years. It would clearly be inconsistent with the basic goals of the '96 Act, and frustrate the Commission's ability to issue reasoned decisions, unless the regulations issued pursuant to Section 251(d) are allowed to encompass all the matters embraced within Section 251 in the light of how Congress has dealt with those matters <u>throughout</u> the '96 Act.

1. <u>Duty to Bargain in Good Faith</u> -- ¶¶ 46-48

Section 251(c)(1) states that both parties involved in negotiations relating to Section 251(c)(2) through 251(c)(6) have the duty to bargain in good faith. Unfortunately, the ILECs have already revealed bad faith under this provision. US West, for example, at one point broke off negotiations with ELI for state-

mandated interconnection arrangements, and informed ELI it would not start negotiations until US West had formulated its own position on all aspects of Section 251.[7] It would totally undercut the deference reflected in the '96 Act to those states which seek to advance competition even faster than the statutory schedule to permit ILECs to use the passage of the '96 Act to defeat or delay pro-competitive state mandates.

Equally frightening is SWB's approach. Appointing itself "phone ranger" in charge of enforcing the law, SWB has created an "Account Team" which makes sure CLECs comply with the way SWB interprets state certification requirements under the '96 Act, demands that the "good faith" negotiations be confidential, and insists that interconnection requests be "specific" by demanding to know which services a CLEC intends to offer. But no state has appointed SWB to enforce their remaining certification rules, and SWB is plainly not entitled to conceal its non-compliance with Section 2521(c)(1) under the cloak of a confidentiality agreement, or to demand access to CLECs' business plans. The proposed regulations contained in Subpart F would clearly prohibit the ILECs from incorporating the role of state entry

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[7] ELI filed complaints in Utah and Oregon concerning US West's behavior, and, after reaching interim accords with US West, withdrew those complaints. ALTS understands that some ILECs are also demanding that CLECs sign affidavits attesting that negotiated agreements comply with Section 271. Obviously, such "gun to the head" tactics are the antithesis of good faith bargaining.

"enforcer" into the negotiation process, and flatly prohibit any inappropriate demands for "confidentiality."[8]

As the Wisconsin Staff recently concluded in its comments in Investigation of the Implementation of the Federal Telecommunications Act of 1996 in Wisconsin, 05-TI-140, filed April 11, 1996, at 5:

> "The duty to furnish information to the other party in negotiations is well-settled under state and federal law governing labor relations, which incidentally also imposes a duty to negotiate in good faith upon parties. (See the U.S. Supreme Court's 1956 decision in National Labor Relations Board v. Truitt Manufacturing Company [351 US 149, 100 L ed 1027, 76 S Ct 753].) Staff views this case as analogous to negotiations between competing providers requesting cost-based interconnection and incumbent local exchange carriers who refuse to furnish pertinent cost-based information to substantiate claims that its proposed rates are indeed cost-based."

In addition to obtaining cost information, requesting carriers also need access to existing interconnection agreements, especially those among the incumbents. The Arkansas Commission has already ruled that such agreements must be filed (In re

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[8] ALTS agrees entirely with US West that ILECs are fully entitled to request specific confidentiality prior to disclosure of proprietary technical information, provided requesting carriers are allowed to negotiate the scope of such requests, and their factual basis (April 16, letter of Daniel Poole to Chairman Hundt, p. 4).

ALTS' concern is directed towards a much more egregious practice: demanding that an ILEC's interconnection "offers," as opposed to proprietary technical information, must remain confidential. The content of an "offer" is the best, and ofttimes the only evidence of an ILEC's bargaining in good faith. Preventing a requesting carrier from making use of such offers in mediation, arbitration, or state review would effectively eliminate the "good faith bargaining" requirement of Section 251(c)(1) from the Act.

Negotiated Interconnection agreements of Telecommunications Carriers, Docket No. 96-098-U; released April 1, 1996).[9] ALTS agrees with the Arkansas Commission, and also with NARUC and the Wisconsin Staff that such existing agreements are required to be filed for state approval (NARUC Committee on Communications, briefing binder dated February 26, 1996):

> "All interconnection agreements, including those in existence prior to date of enactment, must be submitted to the State Commissions for approval."
>
> * * *
>
> "State Commissions must approve all negotiated interconnection agreements, including voluntary agreements completed prior to enactment;" emphasis supplied.

Ameritech has tried to escape NARUC's compelling interpretation by arguing that the obligation to file the interconnection agreements in existence on February 8, 1996 "is clearly designed to permit parties to agree voluntarily that pre-existing agreements should be treated as 'section 251' agreements or to agree voluntarily to incorporate all or part of pre-existing agreements into their 'section 251' agreements".[10]

But, contrary to the assumption implicit in Ameritech's argument, there is no "problem" which prevents any parties

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[9] On April 8, 1996, the Arkansas Commission invited comments on SWB's motion to clarify its order of April 1. That motion is still pending.

[10] Ameritech Comments in Investigation of the Implementation of the Federal Telecommunications Act of 1996 in Wisconsin, 05-TI-140, filed April 11 1996, at p. 8.

wishing to incorporate pre-existing agreements into new Section 251 arrangements. Certainly nothing in the '96 Act or in ordinary contract law prohibits them from doing this anytime they want. And without a "problem" that needs curing, Ameritech's effort to portray this statutory provision as nothing more than a limited "solution" is totally unpersuasive, and would effectively rip the provision out of the Act.

Even more dangerously, however, Ameritech's proposal to allow existing agreements to remain hidden from public review or examination by other carriers creates huge opportunities for exactly the sort of favoritism Congress intended to preclude. Ameritech recently stated to the FCC that: "In a competitive environment, customers will change providers, traffic flows will change, and adjacent carriers, which formerly did not compete for customers, have the opportunity to compete alone or in combination with other providers;" emphasis supplied; April 12, 1996, letter of Gary R. Lytle, Vice President, Federal Relations. Ameritech thus admits it currently offers interconnection to one group of competitors while refusing to make those same arrangements available to another group of competitors. This violates the '96 Act, and must be stopped as soon as possible.[11]

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[11] Ameritech also contends these agreements were negotiated under different conditions, and thus should not be made available to new entrants (id.). First, Ameritech's business preferences are not a justification for refusing to comply with a clear statutory requirement. Second, Ameritech's business preferences were apparently not so great that it felt any need to renegotiate (continued...)

2. Interconnection, Collocation, and Unbundled Elements -- ¶¶ 49-171

Interconnection -- ¶¶ 49-65

Interconnection under Section 251 (c)(2) is the set of network interconnection arrangements which include the physical, logical, and service connections necessary for the exchange and routing of traffic between a telecommunications carrier and an incumbent local exchange carrier as well as the rates, terms and conditions for such network interconnection arrangements. The proposed interconnection rules set forth in proposed Rule 402 in Attachment A recognize that CLECs are co-carriers and therefore eligible for the same treatment as incumbents afford each other in their existing interconnection arrangements by ordering the following:

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[11](...continued)
these agreements prior to final enactment of the Telecommunications Act on February 8, 1996. Finally, there would be two significant consequences if Ameritech were correct that its existing interconnection arrangements with other ILECs were not arms-length transactions, and actually confer substantial economic benefits on the independents. First, Ameritech is obligated under well-understood requirements to insure its expenses, including its transactions with the independents, are reasonable and prudent. If Ameritech were correct that its existing interconnection arrangements are all sweetheart deals for the independents, Ameritech's state commissions would need to determine the amounts by which Ameritech's ratepayers have been overcharged by including these inflated costs in Ameritech's rates. Second, it will obviously take a long time before Ameritech succeeds in renegotiating any of these agreements, meaning this asymmetric and discriminatory interconnection system would continue indefinitely absent this Commission's intervention.

- ALTS agrees with the Interconnection NPRM that "uniform interconnection rules would facilitate entry by competitors in multiple states by removing the need to comply with a multiplicity of state variations in technical and procedural requirements" (¶ 50).[12] Interconnection should be available at any requested technically feasible points regardless of the technical fabric of the network at the requested point, i.e., at the end office, the tandem, or any other meet-point between the customer and the CLEC;[13]

- ALTS agrees with the Interconnection NPRM's tentative conclusion that "the minimum federal standard should provide that interconnection at a particular point will be considered

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[12] The diversity of network technologies that exists in various states is no different than the diversity that exists within most states. Basically, America's public switched network only has so many types of vendor equipment, and the technical issues presented by that diversity will not change depending on whether an arrangement happens to be deployed in Florida as opposed to New York. Accordingly, state diversity in networks, to the extent it even exists, is not a sound reason for failing to adopt national interconnection standards (¶ 51).

[13] See In the Matter of the Application of Electric Lightwave, Inc. For a Certificate of Authority to Provide Telecommunications Services In Oregon, Order 96-021, entered January 12, 1995, at 68-69: "Consistent with our decision that AECs [alternative exchange carriers] should be treated as cocarriers, the Commission finds that the applicants should be permitted to interconnect with incumbent providers on the same terms and conditions that LECs have used to interconnect their telecommunications networks ... We also agree with TCG that the parties will bargain on more equal terms and have a greater incentive to agree upon the most efficient interconnection if all costs associated with the construction of facilities are share equally... The parties appear to agree that there are no significant technical obstacles to interconnection, provided the AECs follow existing protocols and procedures and install equipment that complies with network standards." See also In the Matter of the Application of City Signal, Inc., for an Order Establishing and Approving Interconnection Arrangements with Ameritech Michigan, Case No. U-10647, Opinion and Order dated February 23, 1995 at 19: " ... interconnection for the exchange of local traffic between Ameritech Michigan and City Signal should be available either at the end office, the tandem, or at a mutally agreed upon meet-point. The cost of constructing and maintaining the facility should be shared on a 50/50 basis between Ameritech Michigan and City Signal."